



Submitted Electronically

February 11, 2019

Comment Intake  
Bureau of Consumer Financial Protection  
1700 G Street NW  
Washington, DC 20552

**RE: Request for Comment – Policy on No-Action Letters and the BCFP Product Sandbox  
[Docket No. CFPB-2018-0042]**

Dear Ms. Kraninger:

Equifax appreciates the opportunity to submit comments regarding the Bureau of Consumer Financial Protection's (the Bureau) policy on No-Action Letters and the BCFP Product Sandbox.

Equifax is a global information solutions company that uses unique data, innovative analytics, technology, and industry expertise to power organizations, government agencies, and individuals around the world by transforming knowledge into insights that help make more informed business and personal decisions. Hundreds of data scientists in the global Equifax Data & Analytics Lab work every day to better connect the company's unique data with the unique needs of customers through a relentless pursuit of new innovation in predictive analytics, including through the use of artificial intelligence (AI) and machine learning (ML) to develop innovative credit scoring systems.

Equifax recognizes that after finalizing its policies on No-Action Letters and Product Sandbox, the Bureau may receive applications seeking no-action or other regulatory relief for AI or ML credit scoring systems. As a company that has devoted significant time, effort, and resources in this space, Equifax strongly encourages the Bureau to consider the following when reviewing this topic: (1) credit scoring systems that utilize AI or ML should be explainable with consumer transparency by generating accurate key factors or reasons (often referred to as "reason codes"), (2) alternative data proposed to be used in AI or ML credit scoring systems should continue to meet a level of data completeness and accuracy expected in a consumer report from both the consumer reporting agency or other data provider, and consumers should continue to have an opportunity to review and dispute the completeness or accuracy of any of the information, and (3) the credit scoring industry should have an opportunity to demonstrate that specific alternative data will not contain any prohibited factors or have a disparate impact before releasing a credit scoring system in the marketplace, potentially through the use of an "analytical sandbox." Through this comment letter, Equifax will provide additional detail and insight regarding each of these considerations.



## **Credit Scoring Systems that Utilize AI or ML Should be Explainable with Consumer Transparency by Generating Accurate Reason Codes**

Equifax supports the Bureau's goal of facilitating innovation.<sup>1</sup> As the Bureau considers opportunities for innovation within the credit scoring and loan origination spaces, however, Equifax would like to emphasize the importance of explainability within credit scoring systems and highlight for the Bureau that it is possible to benefit from the improved performance of machine learning without sacrificing the consumer protection of explainability. Specifically, to be considered explainable, new AI or ML credit scoring systems should provide consumers with a list of key factors<sup>2</sup>, or "reason codes," that are derived directly from the model producing the score and give the top four (or five, in some cases) elements or reasons adversely affecting the credit score for the particular consumer. Reason codes allow the consumer to understand the key factors that affected his or her credit score and potentially identify actionable steps to improve that score. Without the reason codes being directly derived from the model producing the score and provided in order of importance, the codes do not accurately reflect the factors impacting that score, and could mislead the consumer as to steps required to improve the score. In a worst case scenario, the consumer could take action based on the incorrect or less important factors provided and actually receive a *lower* score. Recognizing the importance of this issue, Equifax and other organizations have dedicated the time and effort to develop explainable machine learning models that improve predictability, while still providing accurate reason codes to the consumer.<sup>3</sup> The emergence of online businesses and websites that enable consumers to track their scores demonstrate that consumers are interested in understanding their credit scores and taking actions to improve them. Equifax urges the Bureau to consider the importance of explainability in AI or ML credit scoring systems when evaluating any requests for regulatory relief under its policy on No-Action Letters and the BCFP Product Sandbox.

## **Alternative Data Used in AI or ML Credit Scoring Systems Should Continue to Meet a Level of Data Completeness and Accuracy, and Consumers Should Continue to have an Opportunity to Review and Dispute the Completeness or Accuracy of the Information**

Equifax recognizes the potential predictive value of non-traditional data in the credit scoring context and generally supports policies that promote access to credit and expand financial inclusion. The search for innovation around alternative data within AI or ML credit scoring systems, however, does not warrant the sacrifice of data integrity and process. In order to be used in the credit scoring system, alternative data should continue to meet a level of data accuracy and completeness consistent with standards expected under the Fair Credit Reporting

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<sup>1</sup> See, e.g., Bureau of Consumer Financial Protection Announces Director for the Office of Innovation, available at: <https://www.consumerfinance.gov/about-us/newsroom/bureau-consumer-financial-protection-announces-director-office-innovation/>; 83 Fed. Reg. 64037 ("The proposed Policy has the following overarching goals: ... (5) providing for coordination with existing or future programs offered by other regulators designed to facilitate innovation."), 64038 ("Relatedly, the Bureau's objectives include...that markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.") *citing* 12 U.S.C. 5511(b)(3), (5).

<sup>2</sup> 15 U.S.C. § 1681g(f)(2)(B) ("The term "key factors" means all relevant elements or reasons adversely affecting the credit score for the particular individual, listed in the order of their importance based on their effect on the credit score.").

<sup>3</sup> See, e.g., Equifax NeuroDecision®.

Act<sup>4</sup> and be subject to a comprehensive set of processes used to ensure accuracy, including, but not limited to, master data management, a data stewardship function and a data audit function. We also would expect any alternative data used to have an accurate ‘as-of’ archiving process with at least five years of data to enable accurate measurement of consumer performance to ensure that credit scoring models are appropriately tested and validated (and periodically re-validated) with respect to: (i) a general population of consumers over a sufficient time period, (ii) a population of the specific customers or consumers of the firms using the alternative data, and (iii) the uses for which the scoring model was intended. Failure to maintain these processes can negatively impact both consumers and the firms using this alternative data.

Further, consumers should continue to have an opportunity to review and dispute the completeness or accuracy of any item of information and have an expectation that the data provider will conduct a reasonable reinvestigation to determine whether the disputed information is inaccurate, as they do under the Fair Credit Reporting Act.<sup>5</sup> Equifax supports the goal of financial inclusion, but relaxing regulations around alternative data without maintaining a sufficient level of data integrity process could have an unintended negative impact on consumers. As a result, Equifax recommends that the Bureau consider these factors when evaluating any requests for regulatory relief under its policy on No-Action Letters and the BCFP Product Sandbox.

**The Credit Scoring Industry Should Have an Opportunity to demonstrate that Specific Alternative Data will not contain any Prohibited Factors or have a Disparate Impact before Releasing in the Marketplace**

Equifax understands that the potential for disparate impact on protected classes of people is always a concern when developing credit scoring systems. When evaluating the potential incorporation of alternative data into new models, this consideration is especially relevant. Compared to traditional data provided for credit scoring, alternative data elements are not well understood, which increases the possibility that alternative data contains prohibited factors (or proxies for prohibited factors), such as gender, race, color, religion, national origin, marital status or age (in some cases), or that the models based on that data could have a disparate impact. The BCFP Product Sandbox proposal could result in increased risk if the Bureau allows applicants to test alternative data credit models on actual consumers by exempting the applicant from applicable regulatory requirements. The applicant would be evaluating the potential disparate impact of the model in a live consumer environment with the potential unintended consequence of harming consumers in the process. To help alleviate this concern, the Bureau could develop an “analytical sandbox” to study the impact of the applicable alternative data. This “analytical sandbox” would be populated with an anonymized set of consumer data that includes certain otherwise prohibited factors (or proxies for prohibited factors), such as gender, race, age, etc., to be used solely for analytical purposes, to evaluate possible disparate impact. To facilitate innovation, but protect against disparate impact, the industry would have access to this sandbox for analytical and testing purposes. In 2010, the Federal Reserve published a short paper in

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<sup>4</sup> See, 15 U.S.C. 1681i.

<sup>5</sup> See, 15 U.S.C. 1681i.



which a team of their research staff used a similar approach to inform their analysis.<sup>6</sup> We believe the development of an “analytical sandbox” could serve as a valuable resource for the Bureau and the industry to study the impact of alternative data before releasing the new credit scoring systems into the marketplace, and would complement the Bureau’s BCFP Product Sandbox policy.

## Conclusion

Equifax appreciates the Bureau’s goal of facilitating innovation. As a company that has devoted significant time and resources to understanding the impact of AI and ML in credit scoring systems and developing innovative solutions, we hope the Bureau will consider the recommendations presented in this letter.

On behalf of Equifax, thank you for the opportunity to provide the above comments. Please contact me directly with any questions at (678) 373-2282 or [peter.maynard@equifax.com](mailto:peter.maynard@equifax.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Peter W. Maynard". The signature is fluid and cursive, with the first name "Peter" and last name "Maynard" clearly distinguishable.

Peter W. Maynard  
Senior Vice President, Equifax Data & Analytics

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<sup>6</sup> Robert B. Avery, Kenneth P. Brevoort, Glenn B. Canner, *Does Credit Scoring Produce a Disparate Impact?*, Finance and Economic Discussion Series, Divisions of Research & Statistics and Monetary Affairs, Federal Reserve Board, Washington D.C. (2010), available at: <https://www.federalreserve.gov/pubs/feds/2010/201058/201058pap.pdf>.